

April 14, 2016

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 14<sup>th</sup> day of April 2016, at 7:00 P.M., and there were

PRESENT: DANIEL BEUTLER, MEMBER  
JOHN BRUSO, MEMBER  
JILL MONACELLI, MEMBER  
JAMES PERRY, MEMBER  
LAWRENCE PIGNATARO, MEMBER  
FRANK SWIGONSKI, MEMBER  
RICHARD QUINN, CHAIRMAN

ABSENT: DANIEL BEUTLER, MEMBER

ALSO PRESENT: DIANE M. TERRANOVA, TOWN CLERK  
KEVIN LOFTUS, DEPUTY TOWN ATTORNEY  
MATTHEW FISCHIONE, CODE ENFORCEMENT  
OFFICER

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF: STEPHEN KOWALSKI**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Stephen Kowalski, 1 Lake Forest Parkway, Lancaster, New York 14086, for two [2] variances for the purpose of erecting a six foot [6] high fence and a four foot [4] high fence in a required open space area on premises owned by the petitioner at 1 Lake Forest Parkway, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting to the west on Lake Forest Parkway West with an exterior side yard (considered a front yard equivalent) fronting to the south on Lake Forest Parkway East. The petitioner proposes to erect a six foot [6] high fence within the required open space area of the exterior east side yard fronting on Lake Forest Parkway East.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard (considered a front yard equivalent) to three feet in height. The petitioner, therefore, requests a three foot [3] east side yard fence height variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting to the west on Lake Forest Parkway West with an exterior side yard (considered a front yard equivalent) fronting to the south on Lake Forest Parkway East. The petitioner proposes to erect a four foot [4] high fence within the required open space area of the exterior south side yard and continuing to the west side yard fronting on Lake Forest Parkway East.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard (considered a front yard equivalent) to three feet in height. The petitioner, therefore, requests a one foot [1] south side yard and west side yard fence height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Mark Kowalski, Representing Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF STEPHEN KOWALSKI**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY CHAIRMAN QUINN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PIGNATARO  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Stephen Kowalski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of April 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial but not to the extent necessary to preclude the granting of the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BEUTLER	WAS ABSENT
MR. BRUSO	VOTED NO
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED NO
MR. PIGNATARO	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

April 14, 2016

**PETITION OF: KENNETH KUMIEGA**

THE 2<sup>nd</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Kenneth Kumiega, 3724 Bowen Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to an existing garage on premises owned by the petitioner at 3724 Bowen Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The total area of the proposed garage is 3081 square feet.

Chapter 50, Zoning, Section 9D (4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner purchased this property with an existing accessory structure of 2577 square feet. No application was previously made for a variance, therefore the variance request includes the total area that exceeds the Code of the Town of Lancaster. The petitioner, therefore, requests a 2331 square foot accessory structure area variance.

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Kenneth Kumiega, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF KENNETH KUMIEGA**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. PIGNATARO, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PERRY  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kenneth Kumiega and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14<sup>th</sup> day of April 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial but not to the extent necessary to preclude the granting of the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BEUTLER	WAS ABSENT
MR. BRUSO	VOTED YES
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

April 14, 2016

**PETITION OF: STEPHANIE KOCH**

THE 3<sup>rd</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Stephanie Koch, of Lydon Architectural Services, P.C., 255 Great Arrow Avenue, Suite 202, Buffalo, New York 14207 for one [1] variance for the purpose of adding a first floor laundry to the northwest corner of the house on premises owned by Thomas & Kathleen Caros at 6 Old Orchard Common, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C (3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed dwelling would result in a west side yard setback of three feet 4 inches [3' 4"].

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires the minimum width of any side yard setback to equal 10 percent of the width of the lot, which in this case is a seven feet six inch [7' 6"] side yard setback. The petitioner, therefore, requests a west side yard setback variance of four feet two inches [4' 2"].

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Thomas Caros, Petitioner	Proponent
Kathy Caros, Petitioner	Proponent
Stephanie Koch Representing Petitioner Lydon Architectual Servises	Proponent

**IN THE MATTER OF THE PETITION OF: STEPHANIE KOCH**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MS. MONACELLI, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PIGNATARO  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Stephanie Koch and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14<sup>th</sup> day of April 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial but not to the extent necessary to preclude the granting of the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self- created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED** subject to the following condition which in the opinion of this board is an  
appropriate condition to minimize adverse effects on the character of the surrounding area and to  
safeguard the public health, safety, convenience and general welfare:

- The siding for the addition will be the same as the existing house  
or match as closely as possible.

The question of the adoption of the foregoing resolution was duly put to a vote on roll  
call which resulted as follows:

MR BEUTLER	WAS ABSENT
MR. BRUSO	VOTED YES
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

April 14, 2016

**PETITION OF: JULIE SCHWALLIE**

THE 4<sup>th</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of John Agate, Esq., 4476 Main Street, Snyder, New York 14226 designated representative of Julie Schwallie, for one [1] variance for the purpose of allowing individual duplex units to be treated as single family units with common yard area at 264 Miller Street, Lancaster, New York; to wit:

A variance from the requirements of Chapter 50, Zoning, Section 11C (1) (a) of the Code of the Town of Lancaster. The purpose of permitting individual ownership of the duplex even though each unit will not be in compliance with the required side lot and lot area requirements of Chapter 50 of the Code of the Town of Lancaster.

Chapter 50, Zoning, Section 11C (1) (a) of the Code of the Town of Lancaster requires a minimum lot size to be 7,500 square feet.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

John Agate, Representing Petitioner	Proponent
Julie Schwallie, Petitioner	Proponent
Janice Schwallie, Petitioner	Proponent

**IN THE MATTER OF THE PETITION OF JULIE SCHWALLIE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY CHAIRMAN QUINN, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PIGNATARO  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Julie Schwallie and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14<sup>th</sup> day of April 2016, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within Residential District 2, (R-2) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self- created and could preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll  
call which resulted as follows:

MR BEUTLER	WAS ABSENT
MR. BRUSO	VOTED NO
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED NO
MR. PIGNATARO	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

April 14, 2016

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was  
adjourned at 8:31 P.M.

Signed \_\_\_\_\_  
Diane M. Terranova, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: April 14, 2016